

REMARKS

Claims 2-7 and 37-50 are pending in the application.

Claims 2-7 and 37-50 have been rejected.

Reconsideration of the Claims is respectfully requested in light of the following remarks.

I. **REJECTION UNDER 35 U.S.C. § 103**

Claims 2-7 and 37-50 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Sonesh, et al. (US 6,046,762) in view of Shaheen, et al. (US Patent Application Publication 2005/0048969). The rejection is respectfully traversed.

Applicant notes the secondary reference, U.S. Patent Application Publication 2005/0048969 to Shaheen, that forms the basis of the 103(a) rejection is a U.S. continuation application of U.S. Patent No. 6,169,893 to Shaheen.

Section 103(c)(1) provides that:

Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Title 35, United States Code, § 103(c)(1). See also, MPEP § 2146.

The present application is owned by Nortel Networks Limited, as evidenced by documents recorded at Reel/Frame 010492/0116 (assignment from the inventor to Nortel Networks Corporation) and at Reel/Frame 011195/0706 (name change from Nortel Networks Corporation to

Nortel Networks Limited). The grandparent application to the cited Shaheen reference matured into issued US Patent No. 6,169,893 which shows Nortel Networks Limited as the assignee. Therefore, the present application and the cited reference were, at the time the claimed invention was made, owned by, or subject to an obligation of assignment to, the same person. The Shaheen reference is unavailable as prior art under section 103(a) and the Office Action fails to establish a prima facie case of obviousness.

Accordingly, the Applicant respectfully requests withdrawal of the § 103 rejection of Claims 2-7 and 37-50.

II. CONCLUSION

As a result of the foregoing, the Applicant asserts that the remaining Claims in the Application are in condition for allowance, and respectfully requests an early allowance of such Claims.


If any issues arise, or if the Examiner has any suggestions for expediting allowance of this Application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at *rmccutcheon@munckbutrus.com*.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Munck Butrus Deposit Account No. 50-0208.

Respectfully submitted,

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